



# City of Rialto

## Legislation Text

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For City Council Meeting [January 14, 2020]

TO: Honorable Mayor and City Council

APPROVAL: Rod Foster, City Manager

FROM: Savat Khamphou, Public Works Director/City Engineer

Request City Council to Introduce First Reading of **Ordinance No. 1632** entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO , CALIFORNIA, AMENDING SECTION 17.20.070 OF THE RIALTO MUNICIPAL CODE RELATED TO THE AUTHORITY TO RELEASE SUBDIVISION IMPROVEMENT SECURITIES," reading by title only and waiving further reading thereof.

**(ACTION)**

### **BACKGROUND**

Under multiple Precise Plan of Design ("PPD") Projects for new development and redevelopment, there is need for new improvements or reconstruction of existing improvements in the public right of way. Improvements in the public right-of-way are conditioned as part of the entitlement process to ensure development impacts are mitigated, including but not limited to traffic, aesthetics, drainage, lighting, and landscaping. Projects include and range from small scale residential subdivisions to large scale housing tracts, commercial business parks, multi-tenant retail centers, and large scale industrial sites.

Per section 17 of the Rialto Municipal Code and the Subdivision Map Act & Index 2019, the City requires improvement securities whenever a subdivision is filed for development. However, certain guidelines are set in place to protect the City as well as the applicant. Once all public improvements are completed to the Public Works Director/City Engineer's satisfaction and in accordance with the standard plans and specifications, securities for such public improvements are released; however, the municipal code references the director of community services as the City staff executive to release such securities (§17.20.070). To keep the authority vested with the Public Works Director/City Engineer consistently through the process per the Subdivision Map Act, there is a need to modify the Municipal Code to provide such authority to the Public Works Director/City Engineer.

### **ANALYSIS/DISCUSSION**

Section 17.20.050 of the City of Rialto Municipal Code authorizes collection of securities for improvements in the public right-of-way tied to any proposed subdivision through the entitlement process and public improvement construction process. Specifically, Section 17.20.050 provides that *"Any improvement agreement, contract or act required or authorized by the Subdivision Map Act, for which security is required, shall be secured in the manner provided for in Section 66499 of the Subdivision Map Act."*

Furthermore, Bonds may be required in such form and amounts as may be deemed necessary to assure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions. Additionally, in lieu of a surety bond, the applicant may file a cash bond or instrument of credit with the development services department in an amount equal to that which would be required in the surety bond.

Currently, section 17.20.070 - Improvement security-Release details the process to release securities collected for any improvements in the public right-of-way tied to any subdivision. Specifically, part B of §17.20.070 references the director of community services as the executive to reasonably determine the amount of proposed securities and the executive to release such securities as well and provides specifically as follows:

*“Security given to secure payment to the contractor, his/her subcontractors and to persons furnishing labor, materials or equipment, may, six months after the completion and acceptance of the act or work, be reduced to an amount equal to the amount of all claims therefor filed and of which notice has been given to the legislative body, plus an amount reasonably determined by the director of community services to be required to assure the performance of any other obligations secured thereby. The balance of the security shall be released upon the settlement of all such claims and obligations for which the security was given.”*

It is staff's understanding the Municipal Code reads such way because, at the time the ordinance was implemented, the Assistant to the City Administrator/Director of Administrative and Community Services (Finance, Human Resources and Recreation and Community Services), also happened to be the Director of Finance and the Director of Community Services. As such, it was up to him, by title, to release improvement securities as he controlled the Finance Division of the City. Nevertheless, once improvements in the public right-of-way are complete, it is the Public Works Director/City Engineer's responsibility to determine if such improvements are acceptable and constructed within the City's standard plans and specifications and therefore should be his or her authority, with City Attorney's concurrence, to release improvement securities for such improvements.

Section 17.20.070 is further in need of amendment insofar as the timing for release of securities is not in line with the provisions of the Subdivision Map Act (Government Code section 66499.7) requiring their release after the time within which claims of lien are required to be recorded pursuant to Section 8410 et seq. of the Civil Code and after acceptance of the work, rather than six months after the completion and acceptance of the act or work as currently stated. The proposed Ordinance, included as Attachment 1, accomplishes this amendment as well.

This action requests that the City Council conduct the first reading of the proposed Ordinance. If approved, the second reading of the proposed Ordinance will be set for January 28, 2020.

### **ENVIRONMENTAL IMPACT**

The proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment under Title 14 of the California Code of Regulations, Section 15061(b)(3). No further environmental review is necessary.

### **GENERAL PLAN CONSISTENCY**

**Goal 2-6:** Require that all developed areas within Rialto are adequately served with essential public services and infrastructure.

### **LEGAL REVIEW**

The City Attorney has reviewed and supports this staff report, proposed Ordinance, and Public Hearing Notice.

### **FINANCIAL IMPACT**

#### **Operating Budget Impact**

Adoption of the proposed Municipal Code Ordinance change will not impact the City's operating budget revenue. The actual amount of revenue to the City will depend upon the level of development activity experienced by the City.

#### **Capital Improvement Budget Impact**

Adoption of the proposed Municipal Code Ordinance change will not impact the City's Capital Improvement Budget.

#### **Licensing**

There is no proposed Professional Service Agreement/Purchase Order/Construction Contract to be executed and, therefore, there is no business license application to pay.

### **RECOMMENDATION**

Staff recommends that City Council conduct the first reading of the Ordinance entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, AMENDING SECTION 17.20.070 OF THE RIALTO MUNICIPAL CODE RELATED TO THE AUTHORITY TO RELEASE SUBDIVISION IMPROVEMENT SECURITIES" (**Attachment 1**).